

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

IN RE: ETHICON, INC., PELVIC REPAIR	)	MDL NO. 2327
SYSTEM PRODUCTS LIABILITY	)	
LITIGATION	)	
	)	

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THIS DOCUMENT RELATES TO ALL	)	JUDGE JOSEPH R. GOODWIN
CASES LISTED ON THE ATTACHED	)	
EXHIBIT A	)	

**UNOPPOSED MOTION FOR QUALIFIED PROTECTIVE ORDER CONCERNING  
PRODUCTION OF CERTAIN INFORMATION MAINTAINED  
BY GOVERNMENT THIRD-PARTY PAYORS**

Fleming, Nolen & Jez, L.L.P. (referred to herein as “Plaintiffs’ Counsel”), as counsel for certain plaintiffs listed on Exhibit A, file this Unopposed Motion for entry of a Qualified Protective Order Concerning the Production of Certain Information Maintained by Third Party Payors, as set forth in the proposed order attached hereto.

Plaintiffs’ Counsel and Defendant Ethicon, Inc. have entered into a Confidential Master Settlement Agreement (the “MSA”) to resolve certain claims related to the implantation of Ethicon’s Pelvic Mesh Products as defined in the MSA. Pursuant to the MSA, Fleming, Nolen & Jez, L.L.P. has retained Shapiro Settlement Solutions as Lien Administrator (“Administrator”). Under the provisions of the MSA, the Administrator is identifying and resolving certain liens, including all liens that have been or may be asserted by Federal Medicare (part A and Part B), each State and/or Territory Medicaid Agency, the U.S. Department of Veterans’ Affairs, the U.S. Department of Defense, TRICARE, and Indian Health Services (collectively “Governmental Third-Party Payors”) asserted against settlement payments, which are related to the implantation of any of Ethicon’s Pelvic Repair Products as defined in the MSA.

Plaintiffs’ Counsel and the Administrator believe that receipt of certain health information maintained by Governmental Third-Party Payors is necessary for the Administrator to resolve the liens. The information required by the Administrator contains protected health information and

individually identifiable health information, some of which may be protected from disclosure pursuant to the Health Insurance Portability and Accountability Act of 1996 (42 USC §1320d *et seq.*) and the regulations promulgated thereunder (45 CFR §§ 160, 164 *et seq.*) (“HIPAA”).

The attached proposed order will allow Governmental Third-Party Payors to transmit protected health information of the MSA claimants directly to the Administrator to assist in the resolution of asserted liens. Governmental Third-Party Payors producing HIPAA-protected information pursuant to this Order would be deemed to fall within the safe harbor of HIPAA for court-ordered production of personal health information, 45 C.F.R. § 164.512(e)(1), and similar provisions of State law, if any. The proposed order also provides for destruction of any protected health information produced by Governmental Third-Party Payors to the Administrator at the conclusion of the administration of the Fleming, Nolen & Jez, L.L.P. – Ethicon’s Qualified Settlement Fund approved by this Court on March 27, 2017.

Plaintiffs’ Counsel believe that such a Qualified Protective Order is necessary to facilitate the resolution of Governmental Third-Party Payors liens and, therefore, respectfully requests that the Court enter the proposed Order attached hereto.

Dated: April 3, 2017

Respectfully Submitted,

/s/ G. Sean Jez

**Fleming, Nolen & Jez, L.L.P.**

G. Sean Jez

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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of April 2017, a copy of the foregoing document was electronically filed. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's System.

/s/ G. Sean Jez.

# **EXHIBIT A**

<b>Plaintiff Name (Last, First)</b>
Aguirre, Elizabeth
Almy, Christina
Ammons, Lynn
Anderson, Patricia
Anderson, Renee
Andrews, Dee
Austin, LaDonna
Avila, Esther
Baca, Deborah
Ball, Shannon
Banister, Beth
Barney, Karrie
Batis, GeorgeAnn
Bawa, Patricia
Bear, Bernadette
Beatrice, Ninia
Bollinger, Suzette
Bolt, Brenda
Brake, Karen
Branch, Jura
Brennan, Marcella
Britt, LaVerne
Brown, Thelma
Bruner, Sherri
Bunnell, Helen
Busby, Marilyn
Bush, Carolyn
Call, Zeralene
Callahan, Jodie
Callaway, Herlinda
Castillo, Carmen
Cave, Dana
Champion, Joyce
Clark, Maggie
Coe, Tammy
Collins, Alice
Colucci, Patricia
Comans, Frances
Conley, Maglenda
Conti, Barbara
Cook, Sharon
Cooper, Dixie
Cortes, Blanca
Cutter, Jenesta
Dailey, Kathy
Damron, Judy

Datray, Karen
Davenport, Shirley
Davis, Terri
Dawson, Mary
Dillard, Pennye
Duplessis, Roberta
Duran, Irma
Dyarman, Jennie
Dyer, Joyce
Edmondson, Carol
Elkington, Sandra
Ellenburg, Annette
Emblom, Margaret
Escamilla, Tracy
Etter, Faye
Eversole, Debbie
Fannin, Diana
Field, Connie
Fitts, Rosa
Fleming, Stacey
Franks, Keri
Frye, Susan
Fulkerson, Debbie
Fulton, Marilyn
Funches, Liza
Gallup, Lydia
Gaona, Evangelina
Garcia, Alma
Garcia, Yolanda
Garza, Nancy
Geriets, Beverly
Glass, Beverly
Glenn, Kim
Goode, Anna
Goodwin, Carrie
Gossen, Rose
Greene, Joann
Griffin, Monica
Griffiths, Suzanne
Guthrie, Shauna
Hall, Barbara
Hall, Roberta
Hampton, Charlene
Hampton, Zona
Harden, Terri
Harmon, Alicia
Harris, Brenda

Harris, Lillian
Harvley, Stacie
Herman, Sheryl
Hernandez, Adriana
Hibler, Susan
Hidalgo, Adriana
Hill, Rachelle
Hilton, Rose
Himes, Carolyn
Hodge, Antonia
Hofsommer, Karen
Hollaway, Martha
Holman, Cam
Honnoll, Rosalind
Howze, Joyce
Izatt, Carma
Jacobson, Judy
Jelks, Mary
Jenkins, Barbara
Jernstedt, Sonja
Jewett, Nancy
Jex, Patricia
Johnson, Ruth
Johnson, Victoria
Jones, Jo
Karpus, Pamela
Keller, Linda
Kilgore, Debra
Kimball, Gladys
King, Phyllis
Kircher, Patricia
Kloeber, Julie
Klotz, Josephine
Knox, Frances
Krueger, Mary
Kvarfordt, Wanda
Lakins, Brenda
Landry, Cherie
Ledford, Lisa
Leggett, Gail
Lester, Mary
Lewis, Jacqueline
Leyba, Sofie
Lightell, Billie
Lloyd, LaSedar
Lockett, Alma
Lopez, Sylvia

Lynem, Yvonne
Madsen, Anita
Maez, Sally
Mann, Cynthia
Mann, Kimberly
Martinez, Ruby
McCarthy, Mary
McGehee, Mazie
McGrane, Catherine
McGuigan, Tina
Meisinger, Judith
Mellinger, Bette
Melton, Doris
Milani, Jena
Miller, Samantha
Mitchell, Deitra
Moore, Samantha
Morris, Adeline
Mullins, Lottie
Murphy, Brenda
Mutte, Evelyn
Newcomb, Kathryne
Norman, Lidia
Norris, Lisa
O'Brien, June
Odom, Jami
Park, JoAnne
Pendergrass, Beverly
Person, Jacqueline
Pettway, Djuna
Pierce, Sharrie
Pomykala, Kathleen
Powell, Melissa
Prince, Wanda
Puckett, Stacy
Pynn, Wynne
Rabinsky, Judith
Radliff, Jo
Raines, Linda
Ramsey, Frances
Raymond, Julie
Reed, Ronda
Reid, Mary
Reilly, Rebekka
Ressler, Shauna
Reynolds, Tanda
Richards, Phyllis



Riley, Sonya
Robba, Beth
Rodriguez, Yolanda
Rollwagen, Cheryl
Roman-Hall, Connie
Rowlett, Alotha
Ruebel, Ana
Ruehlen, Carle
Russell, Gracie
Russell, Penney
San Filippo, Doris
Sassa, Kim
Saylor, Katie
Schnellenberger, Rita
Schwyhart, Julia
Self, Liliana
Sharpe, Joyce
Shearer, April
Smiley, Terri
Smith, Dorothy
Smith, Gladys
Sommer, Linda
Spencer, Bernadine
Spencer, Lawana
Spicer, Marla
Squires, Samantha
Sta-Maria, Terri
Suter, Margaret
Swicki, Maria
Taggart, Stephanie
Tasz, Estelle
Taylor, Sheila
Thacker, Connie
Thomas, Gayle
Thompson, Diane
Thourogood, Shylene
Tolley, Gail
Tomlinson, Peggy
Turner, Cathleen
Turner, Mona
Unsicker, Kayetta
Vail, Effie
Van Sickle, Paula
Vanover, Sherry
Velazco, Brenda
Walker, Dorothy
Wangler, Marion

Watkins, Cynthia
Weaver, Dorothy
Webb, Mary
Weerts, Patricia
Weldon, Jane
White, Mary
Whitehead, Rebecca
Williams, Katherine
Williams, Nora
Williams, Yvette
Winkelman, Karen
Wooten, Melissa
Wunsh, Diane
Young, Carolyn
Young, Catherine
Young, Janett
Zaccardi, Cindy
Zeek, Mable
Ziegler, Betty
Zutz, LaVonne